

Court File No. A-440-19

**FEDERAL COURT OF APPEAL**

BETWEEN:



TEKSAVVY SOLUTIONS INC.

Appellant

and

BELL MEDIA INC.,  
GROUPE TVA INC.,  
ROGERS MEDIA INC.,  
JOHN DOE 1 DBA GOLDTV.BIZ,  
JOHN DOE 2 DBA GOLDTV.CA,  
BELL CANADA,  
BRAGG COMMUNICATIONS INC. dba EASTLINK,  
COGECO CONNEXION INC.,  
DISTRIBUTEL COMMUNICATIONS LIMITED,  
FIDO SOLUTIONS INC.,  
ROGERS COMMUNICATIONS CANADA INC.,  
SASKATCHEWAN TELECOMMUNICATIONS HOLDING CORPORATION,  
SHAW COMMUNICATIONS INC.,  
TELUS COMMUNICATIONS INC. and  
VIDEOTRON LTD.

Respondents

**NOTICE OF APPEAL**

**TO THE RESPONDENTS:**

**A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU**  
by the appellant. The relief claimed by the appellant appears on the following page.

**THIS APPEAL** will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court directs otherwise, the place of hearing will be as requested by the appellant. The appellant requests that this appeal be heard at Ottawa.

**IF YOU WISH TO OPPOSE THIS APPEAL**, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341 prescribed by the *Federal Courts Rules* and serve it on the appellant's solicitor, or where the appellant is self-represented, on the appellant, **WITHIN 10 DAYS** of being served with this notice of appeal.

**IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION** of the order appealed from, you must serve and file a notice of cross-appeal in Form 341 prescribed by the *Federal Courts Rules* instead of serving and filing a notice of appearance.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

**IF YOU FAIL TO OPPOSE THIS APPEAL, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.**

November 25, 2019

Issued by:  
(Registry Officer)

**ORIGINAL SIGNED BY**  
**K. LALONDE**  
~~A SIGNÉ L'ORIGINAL~~

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## **APPEAL**

**THE APPELLANT APPEALS** to the Federal Court of Appeal from the Order of the Honourable Mr. Justice Gleeson of the Federal Court dated November 15, 2019, by which it was ordered that the Third Party Respondents to the motion shall, on the terms set out in the Order, block or attempt to block access to the websites or online services identified in Schedule 1 of the Order, for a period of two years from the date of the Order.

### **THE APPELLANT ASKS that:**

- (i) The Order of Justice Gleeson be set aside;
- (ii) The costs of this appeal and of the hearing in the Federal Court be awarded to the Appellant; and
- (iii) Such further and other relief as counsel may advise and this Honourable Court may permit.

### **THE GROUNDS OF APPEAL** are as follows:

1. The Judge erred in law in finding that the remedy of ordering Third Party Respondent Internet service providers to block access to websites (the “site-blocking remedy”) was available at law, including in particular, that it was available under the *Copyright Act*, RSC 1985, c C-42 (the “*Copyright Act*”).
2. The Judge erred in law in finding that section 36 of the *Telecommunications Act*, SC 1993, c 38 (the “*Telecommunications Act*”) did not apply to the site-blocking Order of this Court, given that section 36 provides that Canadian carriers cannot control the content of telecommunications that they carry for the public without the approval of the Canadian Radio-television and Telecommunications Commission.
3. The Judge erred in law in his interpretation and application of the test for a mandatory injunction under *RJR-MacDonald Inc v Canada (Attorney General)*, [1994]

1 SCR 311 ("*RJR-MacDonald*"). In particular, the Judge erred in law by importing and substituting factors from foreign jurisdictions into the *RJR-MacDonald* test.

4. The Order ought to be set aside because it is not compliant with section 2(b) of the *Canadian Charter of Rights and Freedoms*, *The Constitution Act, 1982*, Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11 (the "*Charter*"), and affects the free speech rights of millions of Canadian Internet users.

5. Such further and other grounds as counsel may advise and this Honourable Court may permit.

6. The *Copyright Act*.

7. Sections 7 and 36 of the *Telecommunications Act*.

8. The *Charter*.

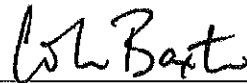
9. The *Federal Courts Act*, RSC 1985, c F-7.

10. The *Federal Courts Rules*, SOR/98-106.

11. The *Order Issuing and Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, SOR/2006-355.

12. The *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives to Promote Competition, Affordability, Consumers Interests and Innovation*, SOR/2019-227.

13. The Appellant proposes that the appeal be heard in the city of Ottawa.



I HEREBY CERTIFY that the above document is a true copy of the  
original issued out of / filed in the Court on the \_\_\_\_\_  
day of \_\_\_\_\_ NOV 25 2019 A.D. 20\_\_\_\_\_  
Dated this \_\_\_\_\_ day of NOV 25 2019 20\_\_\_\_\_

  
KIMBERLY LALONDE  
REGISTRY OFFICER  
AGENT AU GREFFE

November 25, 2019

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